

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 7B-0300868

ENFORCEMENT ACTION AGAINST COUCH OIL & GAS, INC. (OPERATOR NO. 182165) FOR VIOLATIONS OF STATEWIDE RULES ON THE DAVIS, EDGAR LEASE (LEASE NO. 30948), WELL NO. 2, A.T. & H. (PALO PINTO SD) FIELD, CALLAHAN COUNTY, TEXAS

FINAL ORDER

The Railroad Commission of Texas (“Commission”) finds that after statutory notice the captioned enforcement proceeding was heard by a Commission Administrative Law Judge on November 3, 2016, and that the respondent, Couch Oil & Gas, Inc., failed to appear or respond to the Notice of Opportunity for Hearing. Pursuant to § 1.49 of the Commission's General Rules of Practice and Procedure, 16 TEX. ADMIN. CODE § 1.49, and after being duly submitted to the Commission at a conference held in its offices in Austin, Texas, the Commission makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. Couch Oil & Gas, Inc. (“Respondent”), Operator No. 182165, was sent the Original Complaint and Notice of Opportunity for Hearing by certified and first class mail, addressed to the most recent Commission Form P-5 (Organization Report) (“Form P-5”) address. Respondent’s officers and agents as identified on the Form P-5—Charles Couch and Lynn Couch—were each sent the Original Complaint and Notice of Opportunity for Hearing by certified and first class mail, addressed to their last known address.
2. All certified mail envelopes containing the Original Complaint and Notice of Opportunity for Hearing were returned to the Commission between September 9, 2016 and September 30, 2016. No first class mail was returned. Record of the return of certified mail has been on file with the Commission for more than 15 days, exclusive of the day of receipt and day of issuance. Respondent was given more than 30 days’ notice of the Original Complaint and Notice of Opportunity for Hearing. Respondent has not entered into an agreed settlement order, filed an answer, or requested a hearing.
3. On July 28, 2015, Respondent, a corporation, filed a Form P-5 with the Commission reporting that its officers consist of the following individuals: Charles Couch, President; and Lynn Couch, Vice President.
4. Charles Couch was in a position of ownership or control of Respondent, as defined in section 91.114 of the Texas Natural Resources Code, during the time period of the violations of Commission rules committed by Respondent.
5. Lynn Couch was in a position of ownership or control of Respondent, as defined in section 91.114 of the Texas Natural Resources Code, during the time period of the violations of Commission rules committed by Respondent.

6. Respondent's Form P-5 is delinquent. Respondent had a \$50,000 bond as its financial assurance at the time of the last Form P-5 annual renewal submission.
7. The violations of Commission rules committed by Respondent are related to safety and the control of pollution.
8. Respondent designated itself to the Commission as the operator of the Davis, Edgar Lease (Lease No. 30948), Well No. 2, by filing an Application for Permit to Drill, Recomplete, or Re-Enter (Commission Form W-1) filed February 22, 2012.
9. Commission inspection reports made on September 21, 2015, November 3, 2015, December 11, 2015, February 1, 2016, April 15, 2016, May 7, 2016, and May 10, 2016, and either reports filed by Respondent with the Commission reflecting zero production, or the absence of production reports filed by Respondent with the Commission since March 2012, show that the Davis, Edgar Lease, Well No. 2 has been inactive for a period greater than one year. The subject well never produced.
10. No work-overs, re-entries, or subsequent operations have taken place on the subject well within the last twelve months; the subject well has not been properly plugged in accordance with Statewide Rule 14, 16 TEX. ADMIN. CODE § 3.14; and no plugging extension is in effect for the subject well as allowed by Statewide Rule 14. The subject well is not otherwise in compliance with Statewide Rule 14.
11. Usable quality groundwater in the area can become contaminated by migrations or discharges of saltwater and other oil and gas wastes from the subject well. Unplugged wellbores, in violation of Statewide Rule 14(b)(2), constitute a cognizable threat to the public health and safety because of the potential of pollution.
12. The total estimated cost to the State for plugging the Davis, Edgar Lease, Well No. 2 is \$23,800.00.
13. Commission inspection reports made on September 21, 2015, November 3, 2015, December 11, 2015, February 1, 2016, April 15, 2016, May 7, 2016, and May 10, 2016, for the Davis, Edgar Lease, Well No. 2 found pressure in the tubing, casing, and bradenhead. No test has been scheduled or performed as required.
14. Commission inspection reports made on September 21, 2015, November 3, 2015, December 11, 2015, February 1, 2016, April 15, 2016, May 7, 2016, and May 10, 2016, for the Davis, Edgar Lease, Well No. 2 found that the surface casing was leaking below ground level and that the casing had not been repaired or replaced.
15. Pressure on surface casing could be indicative of possible produced fluid channeled into and associated with contamination of usable quality groundwater stratum.
16. Wells leaking below the ground surface in violation of Statewide Rule 17(b) can result in contamination of surface or subsurface waters, resulting in pollution.
17. Respondent has no prior history of violations of Commission rules.

CONCLUSIONS OF LAW

1. Proper notice was issued by the Commission to Respondent and all other appropriate persons legally entitled to notice.
2. All things necessary to the Commission attaining jurisdiction over the subject matter and the parties have been performed or have occurred.
3. Respondent is responsible for maintaining the subject lease in compliance with all applicable Commission rules and chapters 89 and 91 of the Texas Natural Resources Code.
4. Respondent is in violation of Statewide Rules 14(b)(2) and 17(b). 16 TEX. ADMIN. CODE §§ 3.14(b)(2) and 3.17(b).
5. The documented violations committed by Respondent constitute acts deemed serious, and a hazard to the public health, and demonstrate a lack of good faith pursuant to TEX. NAT. RES. CODE § 81.0531(c).
6. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 14(b)(2), which requires that plugging operations on each dry or inactive well shall be commenced within a period of one year after drilling or operations cease and shall proceed with due diligence until completed, unless the operator is eligible for and obtains an extension of the plugging deadline.
7. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 17(b) which requires that any well showing pressure on the bradenhead or leaking gas, oil, or geothermal resource between the surface and the production or oil string be tested and if the test shows pressure or is inconclusive, the casing shall be condemned and a new production or oil string shall be run and cemented.
8. Pursuant to TEX. NAT. RES. CODE § 81.0531, the Commission may assess administrative penalties against Respondent for the subject violations of up to \$10,000 per day for each violation, with each day such violations continued constituting a separate violation.
9. An assessed administrative penalty in the amount of SIX THOUSAND FOUR HUNDRED DOLLARS (\$6,400.00) is justified considering the facts and violations at issue.
10. As persons in a position of ownership or control of Respondent at the time Respondent violated Commission rules related to safety and the control of pollution, Charles Couch and Lynn Couch, and any other organization in which either or both may hold a position of ownership or control, are subject to the restriction in section 91.114(a)(2) of the Texas Natural Resources Code.

IT IS ORDERED THAT within 30 days from the day immediately following the date this order becomes final:

1. Couch Oil & Gas, Inc. shall place the Davis, Edgar Lease, Well No. 2, in compliance with Statewide Rules 14(b)(2) and 17(b), and any other applicable Commission rules and statutes.
2. Couch Oil & Gas, Inc. shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **SIX THOUSAND FOUR HUNDRED DOLLARS (\$6,400.00)**.

It is further **ORDERED** that as persons in a position of ownership or control of Respondent at the time Respondent violated Commission rules related to safety and the control of pollution, Charles Couch and Lynn Couch, and any other organization in which either or both may hold a position of ownership or control, shall be subject to the restriction in section 91.114(a)(2) of the Texas Natural Resources Code for a period of no more than seven years from the date the order entered in this matter becomes final, or until the conditions that constituted the violations herein are corrected or are being corrected in accordance with a schedule to which the Commission and the organization have agreed, and all administrative, civil, and criminal penalties and all cleanup and plugging costs incurred by the State relating to those conditions are paid or are being paid in accordance with a schedule to which the Commission and the organization have agreed.

It is further **ORDERED** by the Commission that this order shall not be final and effective until 25 days after the Commission's order is signed, unless the time for filing a motion for rehearing has been extended under TEX. GOV'T CODE § 2001.142, by agreement under TEX. GOV'T CODE § 2001.147, or by written Commission Order issued pursuant to TEX. GOV'T CODE § 2001.146(e). If a timely motion for rehearing is filed by any party at interest, this order shall not become final and effective until such motion is overruled, or if such motion is granted, this order shall be subject to further action by the Commission. Pursuant to TEX. GOV'T CODE § 2001.146(e), the time allotted for Commission action on a motion for rehearing in this case prior to its being overruled by operation of law is hereby extended until 90 days from the date the parties are notified of this order in accordance with TEX. GOV'T CODE § 2001.144.

All requested findings of fact and conclusions of law, which are not expressly adopted herein, are denied. All pending motions and requests for relief not previously granted or granted herein are denied.

Noncompliance with the provisions of this order is subject to enforcement by the Attorney General and subject to civil penalties of up to \$10,000.00 per day per violation.

Done this 24th day of January, 2017.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order
dated January 24, 2017)

JNC/rnf